IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WA.No. 1897 of 2003()

AGAINST THE JUDGEMENT/ORDER IN OP.12306/1999 Dated 26/09/2003
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APPELLANT: PETITIONER:

K. KUNJAMMU, MANAGING PARTNER,
HERALD INDUSTRIES, TANUR ROAD,
TIRUR, MALAPPURAM DISTRICT.

BY ADV. SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN
SRI.NAVEEN.T

RESPONDENTS: RESPONDENTS:
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1. THE KERALA FINANCIAL CORPORATION,
VELLAYAMBALAM, THIRUVANANTHAPURAM-1,
REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE ASSISTANT MANAGER (FINANCE &
ACCOUNTS), KERALA FINANCIAL CORPORATION,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

3. THE DISTRICT MANAGER, KERALA
FINANCIAL CORPORATION, DISTRICT OFFICE,
MALAPPURAM.

4. THE TAHSILDAR, TIRUR, MALAPPURAM DIST.

BY ADV. SRI.V.B.UNNIRAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 21/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K.Bali,C.J. & C.N.Ramachandran Nair,J.

W.A.No.1897 of 2003

Dated this the 21st day of December, 2006

JUDGMENT

V.K.Bali, C.J.(oral)

The appellant has died as reported by learned counsel for the appellant. We, however, find the dispute between the appellant and Kerala Financial Corporation was with regard to rate of interest only. Whereas the case of the appellant is that rate of interest is 5.5%, it is the case of the Corporation that the same was 11% under the agreement. On hearing the rival contentions of the parties as mentioned above, the learned Single Judge only directed that first respondent should consider the issue with reference to the agreement executed between the petitioner and the Corporation and with reference to other documents which may be relied on by the petitioner with notice to the petitioner within a period of two months from the date of receipt of a copy of the judgment. In view of the directions given by the learned Single Judge, the matter has not been closed. The controversy is still open for decision by the concerned authorities. In these circumstances, it will be of no use in adjourning this case for bringing on record the legal representatives of the deceased

appellant on records. If, according to the legal representatives, the dispute still persists, it shall always be open for them to have determination of the issue in view of the direction given by the learned Single Judge. The option, thus, available to the appellant shall now be open to his legal representatives. Pursuant to the direction, while considering the matter by the concerned authority if a decision is arrived at against the legal representatives, they will be well within their right to challenge the same before the appropriate authorities. Legal representatives can make representation before the Corporation in the matter.

The appeal is accordingly disposed of.

V.K.Bali
Chief Justice

C.N.Ramachandran Nair
Judge

pms/vku/